



**TESTIMONY OF  
DANIEL DEBARBA, PRESIDENT AND CEO  
NORWALK HOSPITAL  
SUBMITTED TO THE  
JUDICIARY COMMITTEE  
Friday, March 4, 2011  
HB 6487, An Act Concerning Certificates Of Merit**

Norwalk Hospital appreciates the opportunity to submit testimony concerning **HB 6487, An Act Concerning Certificates Of Merit**. Norwalk Hospital opposes this bill.

Under current Connecticut law, tort cases that involve technical or scientific fields require expert testimony. For medical liability cases, Connecticut has developed a statutory framework to ensure that the experts used are sufficiently qualified. As part of this system, Connecticut law also contains a requirement that a party, or the party's lawyer, perform and certify a pre-suit analysis to ensure that the claim is filed in good faith. This pre-suit process is documented by a "good faith certificate," along with a brief written explanation of the expert's review stating that the expert believes that there appears to be evidence of medical negligence. Failure to include a good faith certificate with a complaint makes the claim subject to possible dismissal.

This bill seeks to significantly weaken the good faith certificate process. The bill would dramatically expand the types of professionals permitted to give pre-suit expert opinion to include any person who might be deemed an expert at the time of trial rather than experts who have the same specialty or training as the defendant. Such a change may increase issues caused by plaintiffs misrepresenting or misunderstanding physicians' opinions as to the merits of their actions. This bill may also compromise the reasonable basis for filing a medical malpractice case will lead to more questionable and meritless cases being filed.

In addition, HB 6487 would remove the objective standards regarding qualified experts, but it also would remove the penalty of possible dismissal – a penalty that essentially assures compliance – for failure to obtain a good faith certificate. The bill, instead, would merely require those caught in non-compliance to submit the certificate within 30 days after filing suit. A pre-suit obligation that can be performed after the suit is filed is meaningless, and makes the process discretionary.

Additionally, the bill seeks to alter the rules of trial evidence, limit the right of cross-examination of expert witnesses, and remove defense arguments, evidence, and motions directed at the plaintiff's case if the plaintiff changes his theory, allegations, or expert opinion. These changes would be a stunning departure from current practice and will result in an unlevel playing field for litigants. Due process, evidentiary rights, and essential elements of trial such as cross-examination, cannot be stacked in favor of one side only, or the civil justice system risks being thrown out of balance. We urge you to oppose HB 6487.

Thank you for your consideration. If you have any questions, please feel free to call me at 203-852-2682.